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# STATE REGISTER

STATE OF MINNESOTA

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**September 6, 1982**

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### Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
<b>SCHEDULE FOR VOLUME 7</b>			
11	Monday Aug 30	Friday Sept 3	Monday Sept 13
12	Thursday Sept 2	Monday Sept 13	Monday Sept 20
13	Monday Sept 13	Monday Sept 20	Monday Sept 27
14	Monday Sept 20	Monday Sept 27	Monday Oct 4

\*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

\*\*Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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### How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

#### The **PROPOSED RULES** section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

#### The **ADOPTED RULES** section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the **MCAR AMENDMENTS AND ADDITIONS** list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issue 27-38, inclusive	

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# ADOPTED RULES

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The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

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## Department of Employee Relations

### Adopted Repeal of Rules Regarding the State Personnel System

The rules proposed and published at *State Register*, Volume 6, Number 49, page 2228, June 7, 1982 (6 S.R. 2228) are adopted as proposed.

## Department of Energy, Planning and Development Energy Division

### Adopted Rules Governing the Petroleum Products State Set-Aside Program

The rules proposed and published at *State Register*, Volume 6, Number 48, pages 2005-2012, May 31, 1982 (6 S.R. 2005) are adopted with the following modifications:

#### Rules as Adopted

##### 6 MCAR § 2.0110 Definitions.

P. Government services. "Government services" include: activities of the judicial branch of government; jail and prison activities; meetings of elected political officials; the Division of Emergency Services ~~Operations Center~~ city, county, and state activities; hearings of mobilized Local Energy Conservation Boards; ~~hearing~~ hearings of the Office of Administrative Hearings; and minimum services to provide Aid For Dependent Children, food stamps, Social Security Income, and Social Security checks.

##### 6 MCAR § 2.0115 Appeals process.

C. State set-aside appeals board. The state set-aside appeals board consists of:

1. the commissioner or the ~~director's~~ commissioner's designee, as chairperson;

## Pollution Control Agency Water Quality Division

### Adoption of Rules Relating to Certification of Waste Disposal Facility Operators and Inspectors

#### Rules as Adopted

The rules proposed and published at *State Register*, Volume 6, Number 35, pages 1523-1528, March 1, 1982 (6 S.R. 1523) are adopted with the following modifications:

##### 6 MCAR § 4.6089 Definitions.

G. Equipment operator. "Equipment operator" means an individual on the site who performs the necessary actions of properly disposing of the waste.

H. Inspector. "Inspector" means any individual who has governmental authority to routinely ~~reviews~~ review waste disposal facilities to determine compliance with applicable statutes, rules, permits, ordinances, or standards. "Inspector" does not

include county board members, agency board members, or other individuals employed, appointed, or elected who are not directly involved in routine review of a waste disposal facility. "Inspector" may include individuals who are employed as environmental health specialists or sanitarians, technicians, zoning administrators, county solid waste officers, pollution control specialists, engineers, soil scientists, and hydrologists.

~~H.~~ I. Operator. "Operator" means any individual responsible for conducting work at a waste disposal facility. "Operator" does not include ~~elected officials~~, office personnel, laborers, transporters, corporate directors, elected officials, or other individuals in managerial roles ~~who~~ unless such individuals are not directly involved in on-site supervision or operation of a waste disposal facility. "Operator" does not include private individuals who store or landspread sewage sludge on property owned or farmed by that individual. "Operator" includes facility managers, supervisors, and equipment operators.

~~I.~~ J. Waste. "Waste" means solid waste, sewage sludge, hazardous waste and construction debris, as those terms are defined in Minn. Stat. § 115A.03.

**6 MCAR § 4.6090 Classification of disposal facilities.** The agency adopts the following classifications of disposal facilities for training and certification purposes.

D. Type IV. A Type IV facility is any disposal facility that applies on the land any sewage sludge or ~~semi-solid, liquid, or contained gaseous waste~~ semisolids from commercial or industrial operations. ~~This facility type includes spray irrigation, subsurface injection, and land application facilities.~~

E. Type V. A Type V facility is any disposal facility that applies on the land any nonhazardous liquid waste from commercial, industrial, or agricultural operations.

**6 MCAR § 4.6091 Certification committee.**

A. Establishment. The agency shall establish a certification committee consisting of ~~nine~~ eleven voting members and two nonvoting members. The voting members shall be appointed by the agency for three-year terms and shall serve without compensation. The initial appointments shall be ~~three~~ four three-year terms, ~~three~~ four two-year terms and three one-year terms. The initial term lengths will be determined by lot once the appointments are made. There shall be equal representation of operators and inspectors on the committee. There shall be one citizen representative. Not more than one voting member shall be a member of the agency staff. Voting members, except the citizen representative, must be certified. There shall be two nonvoting members who are agency staff members responsible for training and certification. Robert's Rules of Order shall govern committee meetings.

**6 MCAR § 4.6092 Individuals required to be certified.**

C. Waiver. Operators of Type ~~IV liquid industrial waste land application~~ V facilities that are certified under 6 MCAR §§ 5.001-5.003 are not required to be certified under 6 MCAR §§ 4.6088-4.6100 unless they also operate a land application facility for solids or semisolids. Operators of Type ~~IV liquid industrial waste land application~~ V facilities shall have the option to be certified under 6 MCAR §§ 5.001-5.003 or 6 MCAR §§ 4.6088-4.6100.

**6 MCAR § 4.6093 Certification of facility operators.**

F. Type V requirements. Before taking an examination, an applicant for certification as an operator of a Type V facility shall:

1. Within the three years before the date of application, complete at least nine contact hours of training courses offered through the agency or other training courses approved by the agency director which are designed to ensure competency at a Type V facility; and

2. Have at least one spray season's work experience as a Type V facility operator.

**6 MCAR § 4.6097 Certificates.**

C. Renewal. A certified individual shall apply for certificate renewal within 30 days of certificate expiration. Renewal certificates shall be issued by the agency director when the agency director receives the application, renewal fee, and evidence that the person has, during the preceding three years, obtained credit for attending training courses offered through the agency or other waste disposal facility training courses approved by the agency director for the number of contact hours specified in Exhibit 6 MCAR § 4.6097 C.-1. for the appropriate type of facility. Individuals who are certified under both 6 MCAR

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## ADOPTED RULES

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§§ 4.6088-4.6100 and 6 MCAR §§ 5.001-5.003 shall be allowed to renew their Type IV certificate by submitting the renewal application, fee and information required by 6 MCAR § 5.003 and evidence of completion of the training hours specified in Exhibit 6 MCAR § 4.6097 C.-1. After confirming that the individual meets the requirements for certificate renewal, the agency director shall issue one certificate which evidences renewal of both the certificate issued under 6 MCAR §§ 4.6088-4.6100 and the certificate issued under 6 MCAR §§ 5.001-5.003.

### Exhibit 6 MCAR § 4.6097 C.-1.

#### Required Training for Certificate Renewal

Facility	Training
Type I	18 Contact hours
Type II	18 Contact hours
Type III	9 6 Contact hours
Type IV	9 Contact hours
Type V	6 Contact hours

**6 MCAR § 4.6100 Certification deadlines.** Individuals requiring certification who are employed on the effective date of 6 MCAR §§ 4.6088-4.6100 as operators or inspectors of a disposal facility shall obtain certification within 24 months after the effective date of 6 MCAR §§ 4.6088-4.6100. After this initial 24-month time period, operators or inspectors needing certification Except as provided in 6 MCAR § 4.6093 F.2., individuals newly employed after the effective date of 6 MCAR §§ 4.6088-4.6100 must become certified within ten months after obtaining employment. During this ten-month time period, they shall be allowed to operate or inspect the appropriate type of waste disposal facility if they meet the educational requirements necessary for certification and, within 30 days after obtaining employment, submit their application for certification and a signed statement of intention to complete all other requirements for certification within the ten-month time period.

## SUPREME COURT

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### Decisions Filed Friday, August 27, 1982

#### Compiled by John McCarthy, Clerk

81-222, 81-224 Scott Bellon, *et al.*, appellants, v. Roger Klawitter, *et al.* Roger Klawitter, *et al.*, v. Scott Bellon, *et al.*, Appellants. Ramsey County.

Inconsistent and irreconcilable responses to negligence apportionment questions require modification.

Affirmed as modified. Wahl, J.

81-241 National Recruiters, Inc. v. Daniel "Marty" Cashman, *et al.*, Appellants. Hennepin County.

The noncompetition agreement between the parties is invalid because unsupported by independent consideration.

Employees did not forfeit their vested interests in the profit-sharing plan where they did not breach the employment contract.

There is no tortious interference with contractual relations absent proof of intentional procurement of a breach of the contract.

The trial court erred in requiring proof of actual damages rather than determining that language complained of was defamatory *per se* and assessing punitive damages.

Reversed in part, affirmed in part and remanded. Wahl, J.

81-255 State of Minnesota v. Gerald and Virginia Williams, Appellants. Aitkin County.

Criminal Jury Instruction 16.06 is fatally flawed because it does not require a finding by the jury that the defendant acted with intent to defraud by issuing a check in payment for goods.

An instruction in a worthless-check case on the element of intent not to pay that directs the jury to find the presumed fact of intent from the basic facts without qualifying instructions that permit the jury to weigh evidence introduced by the defendant to rebut the presumption or that permits the jury to disregard the presumption creates a constitutionally impermissible mandatory presumption.

Reversed and remanded. Wahl, J. Took no part, Kelley, J.

**81-399 Township of Thomastown v. City of Staples, Appellant, Minnesota Municipal Board, Appellant. Wadena County.**

The district court did not abuse its discretion in ordering the Minnesota Municipal Board to conduct no further hearings on the annexation proceeding initiated by the City of Staples' 1977 notice of intent to annex by ordinance and to dismiss that proceeding where the court's original order vacated the Board's final order in whole because the Board's findings, required by statute, were unwarranted by the evidence and constituted errors of law.

Affirmed. Wahl, J. Took no part, Kelley, J.

**81-456, 81-498, 81-519, 81-544 State of Minnesota, by Warren Spannaus, its Attorney General, 81-456 and 81-498 v. Dexter R. Hopf, et al., Naegele, Inc., Appellant, Park Properties, State of Minnesota, by Warren Spannaus, its Attorney General, 81-519 and 81-544 v. Grant A. Ward, et al., Naegele, Inc., Appellant, Joseph L. Winkler, et al. Hennepin County and Ramsey County.**

Chapter 1, Section 3 of the Laws of 1979, Ex. Sess., does not preclude the granting of the state's petitions in eminent domain where those petitions were filed prior to the effective date of the Act.

Minn. Stat. § 173.08, subd. 2(2) (1980) applies to advertising devices within 100 feet of churches or schools in adjacent or business areas as well as in scenic areas.

14 MCAR § 1.5037(F)(4) (1980) is a valid interpretation of Minn. Stat. § 173.08, subd. 2(2) (1980) insofar as it requires the measurement of distances from the property line of church and school grounds.

The requirement of 14 MCAR § 1.5037(F)(4) (1980) that the width of a highway may not be included in measuring the 100-foot distance beyond church and school property is not within the power granted to the commissioner and is therefore invalid.

Minn. Stat. § 173.08, permitting on-premise signs within 100 feet of churches and schools, is constitutional under the First and Fourteenth Amendments where the statute permits off-premise signs elsewhere in business areas.

14 MCAR § 1.5037(E)(12) (1980), permitting the state to condemn advertising devices in areas that have been rezoned from industrial or commercial to residential, is a valid exercise of regulatory power.

Affirmed in part, reversed in part, and remanded. Wahl, J.

**81-506 Hubbard Broadcasting, Inc., et al., Appellants, v. City of Afton, et al. Washington County.**

The district court properly conducted a review of the record to determine the validity of a special-use permit application denial where that record was clear and complete, and did not err in deciding on the record where the appellants failed to supplement the record and by their actions acquiesced in the district court's procedure.

The City of Afton stated legally sufficient reasons with a factual basis in the record in its denial of appellants' special-use permit application, and did not violate the open meeting laws.

The City of Afton properly declined to issue a building permit for a non-permitted commercial use in an agriculture-zoned district.

The denial of the special-use and building permits does not constitute an unconstitutional taking of property where reasonable uses of the property remained.

Affirmed. Wahl, J. Concurring in part, dissenting in part, Peterson, J., Todd, J., and Yetka, J.

**81-1097 Paul F. Sargent, Plaintiff, v. Robert J. Johnson, Architect, Defendant, and Axel H. Ohman, Inc., a corporation, Defendant and Third-Party Plaintiff, v. Preston-Haglin Co., a corporation, Third-Party Defendant and Fourth-Party Plaintiff, v. Liberty Mutual Insurance Company, Fourth-Party Defendant. U. S. District Court-4th District.**

Under the unique facts of this case, where a compensation carrier was excluded from settlement negotiations and the settlement precluded the carrier from a judicial establishment of liability, settlement proceeds must be distributed according to Minn. Stat. § 176.061, subd. 6 (1980).

Certified question answered in the negative. Wahl, J.

**81-1189 Ann Marie Crockett v. Millers Mutual Insurance Association of Illinois, Appellant. Hennepin County.**

The evidence sustains a finding that the wife of an insured who was killed in an automobile accident was a "dependent" entitled to economic loss benefits as defined in Minn. Stat. § 65B.44, subd. 6 (1980).

Affirmed. Wahl, J.

**81-1254 William F. Dolder, etc., v. Wayne G. Griffin, et al., Appellants, Guyer's Builders Supply, Inc., Zagar Construction Company, Inc., Defendant, M. H. Kerber Masonry, Kurt L. Shannon of Shannon's Decorating, Mill City Heating & A/C Co., Berg Dry Wall, Inc., Ronson Door Sales, Inc., Bartholomew Baker, etc., Woodmaster, Inc., Ham Lake Masonry, Inc., David P. Kelley, etc., Aldo, Inc. Hennepin County.**

## SUPREME COURT

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Minnesota Statute § 514.011, subd. 2 (1980) requires that each lien claimant give prelien notice to owners as of the date of each lien claimant's first delivery of goods or commencement of services.

Purchase agreement is not so indefinite and illusory as to preclude purchasers from an action for specific performance. Purchasers are possessed of an equitable interest in the property and are owners under Minn. Stat. § 514.011 subd. 5 (1980) to whom prelien notice must be given.

The trial court erred in granting summary judgment to those lien claimants who did not give prelien notice to the equitable owners as of the date of the lien claimants' first delivery of goods or commencement of services.

The trial court properly denied summary judgment as to those lien claimants whose allegations of contractual relations with the equitable owners presented a genuine issue of material fact.

Reversed in part, affirmed in part, and remanded for proceedings consistent with this opinion. Wahl, J.

**82-85 Delbert Hannah and Wilma Hannah, Appellants, v. Chmielewski, Inc., Admiral Insurance Company, The Red Carpet Bar, Inc., et al. Stearns County.**

The spouse of a police officer injured by an intoxicated person while acting in the line of duty can maintain an action under Minn. Stat. § 340.95 (1980) when the fireman's rule barred the police officer from recovery under the statute prior to the effective date of Chapter 601, § 3, 1982 Minn. Laws.

Reversed and remanded. Wahl, J. Took no part, Simonett, J.

## STATE CONTRACTS

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Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

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## Department of Employee Relations

### Notice of Request for Proposals for Insurance Plan Study and Revision

The Department of Employee Relations is seeking a consultant to analyze the State Employee Group Insurance Program and to recommend improvements in the benefit design and the administrative and fiscal management structure of the plan.

The consultant selected will be paid up to \$100,000 for services rendered. The actual contract payment will be based on the actual services performed. The contract will be from October 4, 1982 through June 30, 1983.

Proposals will be accepted until 4:00 p.m. on September 29, 1982. The formal Request for Proposal may be requested from and other inquiries made to:

James W. Fritze, Assistant Commissioner  
Department of Employee Relations  
3rd floor, Space Center Building  
444 Lafayette Road  
St. Paul, Minnesota 55101  
(612) 296-2642

## Department of Energy, Planning, & Development Development Resources Division

### Notice of Request for Proposals for a Marketing Feasibility Study for a Wood Products Export Marketing Analysis

The purpose of this market analysis is to determine overseas export market for processed wood fuels shipped through the

Duluth Port. The information will be used by the Port (SPAD) to broker shipments. It will also be used by SPAD and other regional development agencies to enhance the wood products industry of northeastern Minnesota.

The department estimates the cost of such a study to be \$23,500.00.

Proposals must be submitted no later than 4:00 p.m., September 27, 1982. Further information is available by writing or calling: Linda Koerner, Department of Energy, Planning and Development, 480 Cedar Street, St. Paul, Minnesota, 55101: (612) 296-3977.

## **State Designer Selection Board**

### **Notice of Request for Proposals for Architectural / Engineering Services**

#### **To architects and engineers registered in Minnesota:**

The State Designer Selection Board has been requested to select a designer for the rehabilitation/alterations to the Combined National Guard Armory and Army Aviation Support Facility, Downtown Airport, St. Paul, Minnesota. Design firms who wish to be considered for these projects should submit proposals on or before 4:00 p.m., September 29, 1982, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.
2. All data must be on 8½" × 11" sheets, soft bound.
3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.
4. The proposal should consist of the following information in the order indicated below:
  - a) Number and name of project.
  - b) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc.
  - c) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If the applicant chooses to list projects which are relevant in type, scale, or character to the project at hand, the person's role in the project must be identified.
  - d) A commitment to enter the work promptly and to assign the people listed in "C" above and to supply other necessary staff.
  - e) A list of design projects in process or completed in the three (3) years prior to the date of this request for agencies or institutions of the State of Minnesota, including the University of Minnesota, by the firm(s) listed in "B" together with the approximate fees associated with each project.
  - f) A section of not more than fourteen (14) faces containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualifications for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described.

The proposal shall consist of no more than twenty (20) faces. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

5. In accordance with the provisions of Minnesota Statutes, 1981 Supplement, Section 363.073, for all contracts estimated to be in excess of \$50,000, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
- b) A statement certifying that your firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
- c) A statement certifying that your firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

6. Design firms wishing to have their proposals returned after the board's review must follow one of the following procedures:

- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready

## STATE CONTRACTS

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to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded.

b) Enclose a self-addressed stamped mailing envelope with the proposals. When the board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the board will retain one copy of each proposal submitted.

Any questions concerning the board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

### 7. PROJECT 5-82

Aviation Support Facility—St. Paul, Minnesota  
Department of Military Affairs  
Estimate Cost \$2,313,000.00

#### a) Description of the Project:

1) General: The proposed project consists of rehabilitation/alterations of approximately 93,000 square feet of existing facility. The scope includes painting, partition and fire code modifications, electrical upgrade, energy conservation measures, equipment installation, roof replacement, tuckpointing and exterior rehabilitation.

2) Site Location: The facility is located at the Downtown Airport, St. Paul, Minnesota.

3) Building Construction: The existing structure, built in 1930, was constructed of masonry exterior walls, steel roof and concrete floor. A two-level office area occupies the west 30 feet and a portion in the center of the facility. A single story shop complex exists at the south end. The remainder of the Armory/Hangar is an aircraft repair shop with a ceiling height of 23 feet. The existing partitions are masonry and wood frame.

4) Topographic Survey: Not required.

5) Soil Tests: The Architect will arrange for the soil tests if required. The Owner will pay the costs.

6) Estimated Project Cost: \$2,313,000.00

b) Work to be Performed by the Designer: The work basically includes the design for the rehabilitation/alterations of the facility, the preparation of required drawings, specifications and allied documents to include bidding documents for same; the bid opening; the handling of contract documents; the general supervision of the construction work for the Owner; preparation of change orders; review and approval of shop drawings and payment requests; and, assistance in final acceptance of the work. In order to receive funding in Fiscal Year 1983, 35% of the design is to be completed January 1, 1983, with the remainder of the plans and specifications to be completed and bids opened prior to September 1, 1983.

c) Fee for the work: Government established at 5.1% of the construction cost of the work. Preliminary work by the Designer will be minimal insofar as trial designs and presentations are concerned. The preliminary drawings for the work will be basically the final working drawings, partially completed. The work does not involve the Corps of Engineers in any way. The specification format will be Designers normal for commercial work, tailored to the project. We have experienced no difficulty in the past while engaging Architects for work under this fee schedule.

Questions concerning the project itself may be referred to Major Wayne Johnson at (612) 632-6631.

Fred W. Kegel, Jr., Chairman  
State Designer Selection Board

## Treasurer's Office Unclaimed Property Division

### Notice of Request for Proposals for Consultant Regarding Unclaimed Property

The Unclaimed Property Division of the State Treasurer's Office is requesting the services of a consultant to assist in locating owners of unclaimed property and to inform businesses of their obligation to report unclaimed property. Estimated cost of the contract is \$5,000. Requests for information will be taken until Sept. 20, 1982.

For further information contact:

Faith E. Woodman  
Director of Unclaimed Property  
G-21 Administration Building  
50 Sherburne Avenue  
St. Paul, Minnesota 55155  
Telephone (612) 296-2568

## **Treasurer's Office Unclaimed Property Division**

### **Notice of Request for Proposals for Attorney Services Regarding Unclaimed Property Compliance**

The Unclaimed Property Division of the State Treasurer's Office is requesting the services and technical advice of an attorney with respect to administration and enforcement of Minnesota's Unclaimed Property Act. The individual shall provide assistance to the internal auditors in connection with audits of property holders, in implementing an in-office compliance program and in obtaining compliance by the federal government with the Unclaimed Property Act. A thorough knowledge of the unclaimed property act and related court cases is essential. Estimated cost of the contract is \$10,000. Requests for information will be taken until Sept. 20, 1982.

For further information contact:

Faith E. Woodman  
Director of Unclaimed Property  
G-21 Administration Building  
50 Sherburne Avenue  
St. Paul, Minnesota 55155  
Telephone (612) 296-2568

## **Department of Public Welfare Chemical Dependency Program Division**

### **Notice of Request for Proposals to Initiate Board and Lodging Facility or Alternative Program for Chemically Dependent Women**

Notice is hereby given that the Chemical Dependency Program Division, Department of Public Welfare, is requesting proposals for board and lodging or alternative programs to serve chronic chemically dependent women. Proposals should include location of facility and modifications to the purpose; hiring of staff; coordination of services and referrals with community agencies; and implementation of the facility within the grant period of January 1 to June 30, 1983. Proposals must be on a Chemical Dependency Division Grant Application Form and must include a statement of review and support by the county CSSA director. Two or three proposals will be selected for funding. The estimated amount of each grant will not exceed \$30,000. Responses must be received by 4:30 p.m. on October 8, 1982.

Direct inquiries to Dorrie Hennagir or Wayne Raske, Chemical Dependency Program Division, 4th Floor Centennial Office Building, St. Paul, MN 55155.

## **Department of Transportation Operations Division**

### **Notice of Availability of Contract for Supportive Services**

The Minnesota Department of Transportation (Mn/DOT) is seeking a qualified individual organization to provide supportive services to the Minority Business Enterprise (MBE) Program sponsored by the Federal Highway Administration (FHWA). This contractor will be responsible for working with small and minority business contractors, assisting them in estimating, securing bonding, bid submittals, project management, and administrative record-keeping for transportation construction projects. Particular emphasis is on minority business enterprise and women business enterprise (MBE/WBE) contractors. The contractor shall be responsible for providing monthly and annual reports as to their accomplishments under the contract conditions as

## STATE CONTRACTS

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described in the Federal Highway Program Manual 6-4-1-8. This is not a request for a proposal. Those interested in being considered should send their response and resume no later than September 14, 1982 to:

B. E. McCarthy  
Consultant Services Engineer  
612 Transportation Building  
St. Paul, Minnesota 55155  
Telephone: (612) 296-3051

The estimated costs for providing the supportive services will not exceed a total cost to the state of \$59,000. Services under this contract must be completed between October 1, 1982 and September 30, 1983.

Those indicating an interest in being considered for the contract will be sent more detailed information relating to the preparation of a proposal.

## OFFICIAL NOTICES

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Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

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### **State Board of Education Department of Education Instruction Division**

#### **Notice of Public Meetings on the Proposed Rules Governing Special Education Supervision, Staff to Student Ratios and Other Related Topics**

Notice is hereby given that the Department of Education is seeking information or opinions from sources outside the agency on proposed rules governing special education policies, definitions, homebound, discipline, supervision, staff to student ratios and surrogate parents. The promulgation of these rules is authorized by Minnesota Statutes, § 120.17, subd. 3, which requires the agency to adopt rules relative to size of classes and supervision and any other rules deemed necessary.

The Department of Education requests information and comments concerning the proposed rules at nine regional public meetings in September and October. Interested or affected persons or groups may submit or present written or oral statements of information at the following meetings:

Region 9  
September 22, 1982  
Room 101  
Mankato State University, Centennial Student Union, Mankato, MN  
9:00 a.m. to 4:00 p.m.  
Parking available in Lot No. IV (4) across from Student Union—Sunken Lot

Regions 6 & 8  
September 23, 1982  
Individual Learning (I.L. 219)  
S.W. State University (Bldg. facing Hwy. 23), Marshall, MN  
9:00 a.m. to 4:00 p.m.  
Please park near the I.L. Building

**Regions 5 & 7**

September 27, 1982

Civic Room (Student Union)

St. Cloud State University, St. Cloud, MN

9:00 a.m. to 4:00 p.m.

Parking available on street near the Student Union (4 hour limit)

**Region 4**

September 28, 1982

SS-209, Lecture Hall (Science Bldg.)

Fergus Falls Jr. College, College Way, (off Lincoln Ave.), Fergus Falls, MN

9:00 a.m. to 4:00 p.m.

Parking available on the street

**Region 11-E**

September 30, 1982

High School Auditorium

St. Anthony High School, 3303 33rd Ave. N.E., St. Anthony, MN

Enter auditorium from parking lot—east door

9:00 a.m. to 4:00 p.m.

Parking available next to the school building or on the street

**Region 3**

October 5, 1982

Banquet Room

Holiday Inn, Highway 53, Eveleth, MN

9:00 a.m. to 4:00 p.m.

Parking is available

**Regions 1 & 2**

October 6, 1982

Upstairs Meeting Room

Best Western, Hwy. 32 South, Thief River Falls, MN

9:30 a.m. to 4:00 p.m.

Parking is available

**Region 11-W**

October 8, 1982

Lehmann Theatre

Portland Adm. Center, Bloomington Public Schools, Portland Ave. S., Bloomington, MN

9:00 a.m. to 4:00 p.m.

Parking available in school parking lot in front and parking to east and west of the building

**Region 10**

October 11, 1982

SMCSU Auditorium

SMCSU Building (S.E. ECSU), 5930 Bandel Rd. N.W., Rochester, MN

9:00 a.m. to 4:00 p.m.

Parking available on the street

Copies of the proposed rules may be obtained by contacting:

Wayne A. Erickson, Manager

Special Education Section

802 Capitol Square Building

550 Cedar Street

St. Paul, MN 55101

Any written material received by the Department of Education shall become part of the record in the event that the rules are promulgated.

September 6, 1982

John J. Feda, Secretary

# OFFICIAL NOTICES

## Office of the Governor

### Notice of Appointment of Department Head

In accordance with Minn. Stat. § 15.06, notice is hereby given of the appointment of Orville Pung as Commissioner of the Department of Corrections effective October 1, 1982.

## Office of the Governor

### Notice of Appointment of Department Head

In accordance with Minn. Stat. § 15.06, notice is hereby given of the appointment of Robert Renner, Jr. as Commissioner of the Department of Energy, Planning and Development effective August 31, 1982.

## Office of the Governor

### Notice of Appointment of Department Head

In accordance with Minn. Stat. § 15.06, notice is hereby given of the appointment of Kenneth Dirkwager as Commissioner of the Department of Public Safety effective September 1, 1982.

## Department of Natural Resources

### Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Roseau County

#### Notice of and Order for Hearing

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minn. Stat. § 105.391, subd. 1 (1980) will be held in the Courtroom, Court House, Roseau, MN, on September 23, 1982 commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative George Larson, Roseau, MN 56741, Department of Natural Resources representative Merlyn Wesloh, Route 5, Box 41A, Bemidji, MN 56601, and County Soil and Water Conservation District representative Odin Lisell, Route 2, Roseau, MN 56751.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § 105.391 (1980) and the criteria contained in Minn. Stat. § 105.37, subs. 14 and 15 (1980). Please take notice that waters listed in para. A.2. may sometimes also be considered for designation, in the alternative, as wetlands.

#### A. PUBLIC WATERS

##### 1. Watercourses.

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range-to-Section</u>	<u>Township</u>	<u>Range</u>
None					

##### 2. Preliminarily designated under section 105.37, subs. 14(a)-14(h).

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
68-21 Hank's Lake	32, 33	162 (Unorganized Territory of Northwest Roseau)	44

#### B. WETLANDS

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
68-92: Unnamed	8, 9	160 (Grimstad)	40
68-93: Unnamed	8, 9, 16, 17	160 (Grimstad)	40

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 15.0424 and 15.0425 (1980).

Any activity that would change the course, current or cross section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1980). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subds. 10 and 12 (1980).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this notice and order may be directed to any member of the hearings unit or to:

David B. Milles  
DNR-Division of Waters  
Third Floor, Space Center Building  
444 Lafayette Road  
St. Paul, MN 55101  
Telephone: 612/296-0516.

August 30, 1982

Joseph N. Alexander, Commissioner  
Department of Natural Resources

## **Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Kittson County**

### **Notice of and Order for Hearing**

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minn. Stat. § 105.391, subd. 1 (1980) will be held in the Board of Commissioners' Meeting Room, Court House, Hallock, MN, on September 22, 1982 commencing at 2:30 p.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative Albin Anderson, Hallock, MN 56728, Department of Natural Resources representative Merlyn Wesloh, Route 5, Box 41A, Bemidji, MN 56601, and County Soil and Water Conservation District representative Ferdie Forfang, Hallock, MN 56728.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § 105.391 (1980) and the criteria contained in Minn. Stat. § 105.37, subds. 14 and 15 (1980). Please take notice that waters listed in para. A.2. may sometimes also be considered for designation, in the alternative, as wetlands.

#### **A. PUBLIC WATERS**

##### **1. Watercourses.**

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range-to-Section</u>	<u>Township</u>	<u>Range</u>
None					

##### **2. Preliminarily designated under section 105.37, subds. 14(a)-14(h).**

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
None			

## OFFICIAL NOTICES

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### B. WETLANDS

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
35-23: Unnamed	34	161 (North Red River)	50

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 15.0424 and 15.0425 (1980).

Any activity that would change the course, current or cross section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1980). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland and during periods of drought. Minn. Stat. § 105.391, subs. 10 and 12 (1980).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this notice and order may be directed to any member of the hearings unit or to:

David B. Milles  
DNR-Division of Waters  
Third Floor, Space Center Building  
444 Lafayette Road  
St. Paul, MN 55101  
Telephone: 612/296-0516.

August 30, 1982

Joseph N. Alexander, Commissioner  
Department of Natural Resources

## Office of the Secretary of State

### Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is September 28, 1982.

**MINNESOTA OFFICE ON VOLUNTEER SERVICES ADVISORY COMMITTEE** has 1 vacancy open for a person residing in Region 10 which includes the 11 counties in the southeastern part of the state (Houston, Freeborn, Fillmore, Olmsted, Winona, Wabasha, Goodhue, Rice, Dodge, Steele and Mower). The committee works with public and private sector organizations to promote volunteerism by effectively coordinating and channeling voluntary action. It also advises and makes recommendations to the Governor and director on program directions and policy issues relating to G.O.V.S. Members are appointed by the Governor; 3 to 5 meetings per year are held at the State Capitol Complex; members are reimbursed for expenses. For specific information, contact the Minnesota Office on Volunteer Services Advisory Committee, 127 University Ave., St. Paul 55155; (612) 296-4731.

**COMMUNITY EDUCATION ADVISORY COUNCIL** has 3 vacancies open immediately. Prescribed qualifications include: 2 lay persons representing congressional district 1 and 5, and 1 representative of government or professions most closely related to community education activities, functions and school administrative jurisdictions. The council promotes the advancement of educational, recreational and social opportunity through maximum utilization of public school facilities. Members are appointed by the Governor and attend quarterly meetings. Each member receives \$35 per diem plus expenses. For specific information, contact the Community Education Advisory Council, 680 Capitol Square Building, St. Paul 55101; (612) 296-2587.

## **Minnesota Teachers Retirement Association**

### **Meeting Notice**

The Board of Trustees, Minnesota Teachers Retirement Association, will hold a meeting on Friday, September 24, 1982, at 9 a.m. in the office of the association, 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota, to consider matters which may properly come before the board.

## **Waste Management Board**

### **Proposed Hazardous Waste Disposal Facility Sites in Aitkin County**

#### **Notice of Change in Hearing Location**

The location of the September 13, 1982 public hearing to be held in connection with the reopening of the Aitkin County hearing record originally noticed for the Aitkin County Courthouse has been changed to the Rice River Town Hall located at the Junction of Highway 65 and Highway 4 south of East Lake, Minnesota.

STATE OF MINNESOTA

State Register and Public Documents Division  
117 University Avenue  
St. Paul, Minnesota 55155

**ORDER FORM**

**State Register.** Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court and Tax Court decisions.

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**EACH ORDER MUST INCLUDE ADDITIONAL \$1.00 FOR POSTAGE AND HANDLING.**

Name \_\_\_\_\_

Attention of: \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

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**FOR LEGISLATIVE NEWS**

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**Briefly/Preview**—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

**Perspectives**—Publication about the Senate. Contact Senate Information Office.

**Weekly Wrap-Up**—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

**This Week**—weekly interim bulletin of the House. Contact House Information Office.

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